

Chen, Sylvia: IRSP-DGEIPS

From: Diaz, Linda: IRSP-DGEIPS
Sent: Wednesday, October 3, 2012 11:01
To: Chen, Sylvia: IRSP-DGEIPS
Subject: FW: Nexen/CNOOC -- Canadian supply chain
Attachments: Nexen - SOEs-Supply Chain.pdf

From: Aitken, Jenifer: SBTMS-SMTPE
Sent: Tuesday, September 25, 2012 3:05 PM
To: Diaz, Linda: IRSP-DGEIPS
Cc: Chen, Sylvia: IRSP-DGEIPS
Subject: FW: Nexen/CNOOC -- Canadian supply chain

24(1)

Thanks

From: Kennedy, Simon: SADMO-BSMDP
Sent: Tuesday, September 25, 2012 3:03 PM
To: Thivierge, Marie-Josée: SBTMS-SMTPE; Aitken, Jenifer: SBTMS-SMTPE
Cc: D'Angelo, Diana: SADMO-BSMDP
Subject: FW: Nexen/CNOOC -- Canadian supply chain

FYI

Simon Kennedy
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Industry Canada
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From: Ron Watkins [mailto:r.watkins@canadiansteel.ca]
Sent: Tuesday, September 25, 2012 11:04 AM
To: Arvanitis, Sophia: IC-MIN; Kennedy, Simon: SADMO-BSMDP
Subject: Nexen/CNOOC -- Canadian supply chain

Sophia, Simon: Per earlier discussions, attached is a copy of our submission to Minister Paradis on the Nexen/CNOOC proposal, emphasizing the Canadian supply chain implications. Please advise if you require additional information.

Thank you,

Ron

2012-10-03

S

Ron Watkins

President, Canadian Steel Producers Association
Président, l'Association canadienne des producteurs d'acier

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September 24, 2012

CONFIDENTIAL

Hon. Christian Paradis, P.C., M.P.
Minister of Industry
C.D. Howe Building
235 Queen Street
Ottawa, Ontario K1A 0H5

Dear Minister:

Under the Investment Canada Act (ICA), you and your officials are evaluating the "net benefits to Canada" of the proposed acquisition of Nexen by the China National Offshore Oil Corporation (CNOOC). Because CNOOC is a state-owned enterprise (SOE) of the Government of China, which is not driven by normal market principles, the ICA review process needs to consider multiple factors regarding Nexen's business practices should the acquisition proceed.

We have reviewed the ICA, including the SOE guidelines, and wish to present a supply chain perspective on this proposal, and for similar acquisitions that could arise in future.

Nexen currently generates benefit to the Canadian economy directly, and through its business relationships with Canadian suppliers of goods and services, including steel products. These supply relationships have developed under competitive market conditions, and have generated Canadian innovation, production, and jobs in supply chains extending into several provinces. Were a CNOOC acquisition to disrupt established supply chain relationships, the net benefits to Canada would be reduced. Further, the premise of a CNOOC acquisition is the growth of Nexen's business. We submit that this growth should create every opportunity for expanded Canadian supplier participation, through market-based competition according to normal commercial practices.

We see particular risk to the net benefits to Canada if Nexen, under Chinese SOE ownership, were to change its procurement practices to favour imports from China. This is especially a risk vis-à-vis the Chinese steel industry, which features a very high degree of state ownership or control, and a proven record of WTO-inconsistent product dumping and export subsidies in Canada and elsewhere.

Consequently, were the government to approve this acquisition under the ICA, it should establish conditions that would serve to sustain current Canadian supply chain benefits, and ensure additional opportunity for Canadian suppliers to compete for new business in accordance with market-based commercial principles. The attachment to this letter recommends specific undertakings to this effect, without impairing Nexen's subsequent ability to procure goods and services on normal competitive terms.

Sincerely,

Ron Watkins
President

cc: Mr. Simon Kennedy
Associate Deputy Minister, Industry Canada

Attachment

Investment Canada Review of Proposed Acquisition of Nexen by CNOOC

Net Benefits in the Energy Sector Supply Chain

1. Net benefit to Canada includes the opportunity for Canadian suppliers to compete for goods and services contracts according to established market-based practices. The Nexen/energy sector supply chain creates sizable economic benefits across Canada. These benefits to Canada would be reduced if these relationships were disrupted by virtue of the proposed ownership change.
2. It is understood that Nexen must be able to source competitive inputs (goods and services) and cannot be expected in practice or under the trade rules to guarantee specific contracts for Canadian suppliers. The goal is to assure maximum opportunity for Canadian suppliers to secure business with Nexen following the proposed merger, and not to reduce this potential through procurement of non-market imports.
3. Canadian suppliers, including steel companies, have won their existing business with Nexen by supplying competitive, high-quality goods. They have invested in technology and product development to meet Nexen's needs. It is part of a "net benefits" calculation that Nexen's future purchasing policies are not fundamentally altered by virtue of its acquisition by a Chinese SOE, especially given China's proven record of non-market trade in steel and steel-related goods and the large percentage of state ownership and control in the steel industry.
4. Ensuring future opportunity for Canadian suppliers is consistent with existing SOE guidelines under the Investment Canada Act regarding:
 - a. the participation of Canadians in its operations in Canada and elsewhere;
 - b. support of on-going innovation, research and development (to develop advanced technology products.)

This consistency flows from the impact on Canadians, and Canadian innovation, in the domestic supply chain.

5. Consequently, in evaluating the proposed purchase of Nexen by CNOOC, the government should require the investor to set out how it will:
 - a. Commit to maintain Nexen's current procurement policies and existing relationships with Canadian supply chain partners;
 - b. Employ normal commercial (market-based) practices for Nexen's future procurements so as to afford Canadian suppliers full opportunity to compete according to prevailing commercial practices in Canada;
 - c. Assure that Nexen/CNOOC's procurement practices will *exclude*:
 - i. Purchasing goods or services from other Chinese state-owned or controlled enterprises unless it can clearly demonstrate that private-sector suppliers cannot meet its needs competitively on normal commercial terms;
 - ii. Importation of goods that are subject to a preliminary or final determinations of dumping or subsidy under Canadian law (SIMA).



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Harold Albrecht, MP
Kitchener—Conestoga

2012 AUG 23 A 9:52

The Hon. Christian Paradis, Minister of Industry
Industry Canada
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Ottawa, ON
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Lead: SBTMS-SESU (RSP)	BF: 2012-09-10
Action: CPGN-Draft Reply	[GEN-OPP-EN]
Issue: CPGN-NEXEN	
Doc/File Date: 2012/08/13	File#: M 5005-31
Document #: 0239891	

August 13, 2012

Dear Minister Paradis,

I am writing you today regarding the potential takeover of Nexen by the China National Offshore Oil Corporation. I wish to register my philosophical and practical opposition to such an action.

As a conservative, I believe in free & fair trade, and a limited role for governments in the economy.

To allow the China National Offshore Oil Corporation to purchase Nexen would *not* demonstrate examples of free trade or fair trade. No guaranteed access to Chinese markets is on the table, no commitment to reciprocity that would indicate a free trading relationship. Worse, this is an example of the most *unfair* trade possible: expecting job creating entrepreneurs to compete against the full resources of a global superpower that appears able to flout the disciplines of currency markets and the most basic standards of human rights.

Most fundamentally though, I object to the state getting involved in pursuits best left to the private sector. That objection is rooted in more than the simple waste of tax dollars which inevitably will result, but in the understanding of how all participants in the economy benefit from the rewards of risk-taking inherent in free enterprise. And at this level, my objection has nothing to do with that fact that it is a *Chinese* government agency seeking to purchase Nexen. I would object just as strenuously were it our own government seeking to distort our economy.

I hope our Government will deny institutions of foreign states the ability to suffocate free enterprise in Canada.

Sincerely,

Harold Albrecht, MP
Kitchener-Conestoga.

CC: The Hon. Ed Fast, Minister of International Trade
The Rt. Hon. Stephen Harper, Prime Minister.



CANADA

CAMPAIGN

RUSS HIEBERT ^{28 P 1:18}
MEMBER OF PARLIAMENT

Rt. Hon. Stephen Harper
Prime Minister of Canada
313-S
House of Commons

Lead: **SBTMS-SESU (IRSP)**
Action: **INFORMATION** [GEN-OPP-EN]
Issue: **CPGN-NEXEN**
Doc/File Date: **2012/08/15** File#: **M 5005-31**
Document #: **0 2400 51**

August 15, 2012

Dear Prime Minister,

I am writing to you today on the subject of the foreign investment review of the proposed CNOCC NEXEN purchase.

I am concerned that although the proposed NEXEN purchase may prove be of 'net benefit' to Canada under the provisions of the existing investment law, short-comings in the law prevent Canada from realizing the full benefits to which I believe we should be entitled.

In particular, I am concerned that our trading and investing relationship with China is one-sided and that an investment proposal of a similar magnitude and nature by a Canadian company in China would simply not be welcomed by the Chinese. Similarly, Canadian manufacturers do not find the same open markets for their goods in China that Chinese manufacturers find for their goods in Canada.

As such, I believe the CNOCC-NEXEN deal presents a significant opportunity for Canada to work with the Chinese Government to demand an improvement in the trade and investment opportunities afforded to Canadian firms and investors, in China.

The deal also raises the issue of human rights. Of course, the Chinese Government's own human rights record is abysmal, and CNOCC as an arm of the Chinese Government has reflected this through its corporate activities in other parts of the world, most notably in Burma.

Again, while our foreign investment law does not directly address overseas human rights concerns, I believe the size of this proposed purchase provides a solid opportunity for our Government to once again raise the issue of human rights and demand reforms from the Chinese Government.

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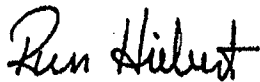
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Both the concerns I have raised (reciprocity in trade and investment climates, and human rights issues) will not be fully addressed under our existing foreign investment law. As such, I would ask you to consider amendments to strengthen the law so that such concerns can be better addressed.

Yours Sincerely,



Russ Hiebert, MP

CC: Hon. Christian Paradis ✓
Minister of Industry

Hon. Ed Fast
Minister of International Trade

Hon. John Baird
Minister of Foreign Affairs

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LaVar Payne
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2012 AUG 24 A 9:33

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Aug 21, 2012

The Honourable Christian Paradis, P.C., M.P.
Minister of Industry
235 Queen Street
Ottawa, Ontario K1A 0H5

Lead: SBTMS-SESU (IRSP)	BF: 2012-09-12
Action: CPGN-Draft Reply	[GEN-OPP-EN]
Issue: CPGN-NEXEN	
Doc/File Date: 2012/08/21	File#: M 5005-31
Document #: 0 239960	

Dear Minister Paradis,

I am very concerned about an issue that is receiving national attention as of late.

It has come to my attention that the sale of Nexen Inc. is imminent. I find it worrisome that the state-owned Chinese corporation CNOOC Limited is attempting to make the purchase of Nexen.

In the free market, I have no issue with privately owned organizations making purchases of strategic assets. What is of grave concern to me is the human rights record of the government of the People's Republic of China. I'm sure you are aware that this record is far from stellar.

The Chinese are known for human rights abuses, it's no secret. Any dissent or show of support for democracy in China is brutally repressed by the regime. There is no democracy in China. They do not share our Canadian values, values like support for individual rights and freedoms democracy and the rule of law.

It is my belief that Canadian laws must prevail, and that if we were to allow a state-owned company of a foreign nation that brutally represses its own citizens to buy a strategic asset here, we would be setting a very dangerous precedent.

If we allow the Chinese to buy this asset, what is next? Again, I have no issue with a private Chinese company that buys and sells on the free market from making

purchases here. But, as CNOOC is a state-owned enterprise, it is in fact a representative of the government of the People's Republic of China, however arms length it may be from government affairs.

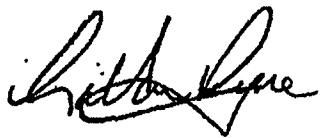
Another issue of concern to me is the lack of environmental concern with the regime in Beijing. We know that they have built many new coal power generation plants and continue to build new coal fired plants. They also have been critical of Canada in regards to Kyoto. We've seen the issue with communist regimes in the past (when the Soviet Union broke up for instance, we discovered that lakes were literally filled with sludge). I do believe that the Chinese administration has little to no regard for environmental preservation, and this is another area of concern.

Minister, I believe I am conveying to you the same concerns that many of my constituents in Medicine Hat have, as well as many of my fellow parliamentarians. I believe that many Canadians feel the same way.

All this being said, I urge you to very carefully consider the pros and cons when making the decision of whether or not to allow the sale of Nexen to CNOOC.

Thank you for taking the time to read over my concerns Minister, I look forward to your reply.

Regards,

A handwritten signature in black ink, appearing to read 'LaVar Payne', with a stylized flourish at the end.

LaVar Payne, M.P.
Medicine Hat Constituency

CC: The Rt. Hon. Stephen Harper, P.C., M.P, Prime Minister

Parisien, Evelyne: CPO-BSGP

From: Alex Neve [aneve@amnesty.ca]
Sent: August 15, 2012 7:49 PM
To: Correspondence Minister/Correspondance Ministre: OCS
Subject: Letter regarding Nexen/CNOOC
Attachments: CNOOC - Nexen takeover letter.pdf

Dear Minister Paradis,

Attached please find a letter endorsed by a number of organizations that are part of the Canadian Coalition for Human Rights in China, outlining concerns and recommendations with respect to the possible takeover of Nexen Inc by the Chinese National Offshore Oil Corporation. We would welcome an opportunity to meet with you or your officials to discuss this further.

Sincerely,

Alex Neve
Secretary General
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**Canadian Coalition
on Human Rights in China**

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The Honourable Christian Paradis
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by email: minister.industry@ic.gc.ca

August 16, 2012

Dear Minister,

We write to you as members of the Canadian Coalition on Human Rights in China,¹ a coalition of 15 Canadian organizations dedicated to ensuring there is strong attention to human rights in Canada's relationship with China. For over fifteen years, the coalition has regularly engaged with successive Canadian governments and parliamentarians - sharing information, raising concerns and advancing recommendations for Canadian policy. Collectively we offer a wide breadth of experience, expertise and contacts with respect to human rights in China and our organizations represent the views and concerns of hundreds of thousands of Canadians.

We are writing at this time to share our concerns and recommendations with respect to the potential takeover of Calgary-based oil company Nexen Inc. by the China National Offshore Oil Corporation (CNOOC). We understand that your department will carry out an assessment of whether such an acquisition of control is of "net benefit to Canada". We understand that you will examine, as part of this assessment, the factors enumerated in section 20 of the *Investment Canada Act*, which include, among others, the impact of the investment on Canada's economic productivity, employment, production, levels of domestic competition, cultural policy objectives and Canada's ability to compete internationally.

¹ The Canadian Coalition for Human Rights in China is made up of Amnesty International Canada (English & Francophone Branches), ARC International, Canada Tibet Committee, Canadian HIV/AIDS Legal Network, Canadian Labour Congress, Falun Dafa Association of Canada, Federation for a Democratic China, Movement for Democracy in China (Calgary), PEN Canada, Students for a Free Tibet Canada, Toronto Association for Democracy in China, the Uyghur Canadian Society and the Vancouver Society in Support of Democratic Movement in China.

In the Coalition's view it is vital that human rights concerns be given central consideration during the foreign investment review process. That includes assessing China's troubling general human rights record (of particular importance given that CNOOC is state-owned), CNOOC's own human rights record, and the existing human rights policies and practices of Nexen. All of those considerations must be thoroughly and transparently taken into account during your review, with a full accounting to Canadians as to how they have been weighed.

Human rights impact assessment

Our Coalition does not take a position on whether this particular acquisition should proceed. We also take no position on the issue of investment in Canada by foreign state-owned enterprises. However, we note that Canada has a responsibility to conduct careful and independent human rights impact assessments prior to the conclusion of trade and investment agreements, and take appropriate measures to address all of the human rights concerns identified through such assessments. These measures may include limiting, qualifying or barring investment by enterprises that interfere with the enjoyment of human rights through their operations or contribute to ongoing or future human rights violations by generating sustaining revenues for highly repressive regimes.

International human rights bodies including the Office of the High Commissioner for Human Rights and the United Nations human rights treaty bodies and special procedure mandate holders have all urged states to inform their trade and investment policies by a careful review and consideration of human rights concerns. According to the Office of the High Commissioner for Human Rights,

States and other actors ... should undertake human rights impact assessments of trade and development rules, policies and projects, both during the process of policy and project formulation as well as after a period of implementation ... such assessments should be public and participatory, focus in particular on disadvantaged and vulnerable groups and highlight the differing impacts of projects and policies on men and women.²

The Canada-China Trade and Investment Relationship

Our Coalition has long expressed concerns about the subordination of human rights to trade and investment goals in Canada's bilateral and multilateral foreign policy with respect to China. Although Canada has frequently argued that a policy of private engagement about human rights concerns is the most constructive strategy for realizing human rights improvement there, we maintain that Canada should pursue an approach that involves both quiet engagement and public advocacy. We have also frequently underscored that a credible strategy of engagement must be accompanied by clear benchmarks and timelines against which to measure progress. We are concerned that no such benchmarks have been developed, despite the fact that this has been Canada's approach to China for over fifteen years.

² High Commissioner for Human Rights, *Analytical Study of the High Commissioner for Human Rights on the fundamental principle of participation and its application in the context of globalization E/CN.4/2005/41* (23 December 2004) at para. 50, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G04/169/72/PDF/G0416972.pdf?OpenElement>.

The proposed Nexen takeover comes as part of a growing wave of Chinese economic expansion, particularly with respect to the natural resource sector. After decades of preventing its companies from overseas investment, the Chinese government has permitted a dramatic increase in outward cross-border merger and acquisition activities. This situation provides countries such as Canada with more leverage when it comes to influencing the Chinese government on the human rights front.

Our Coalition has frequently stressed that Canada *cannot* assume that higher levels of international trade and investment will automatically result in increased respect for human rights in China and that Canada must work concretely and very specifically to ensure that human rights figure prominently and meaningfully in the expanding commercial relationship between the countries. In our view, the strong interest being shown by China in Canada's natural resources presents an opportune occasion for Canada to more forcefully raise human rights concerns in all aspects of the country's dealing with China.

Guidelines for Investment by State-owned enterprises

We note that in December 2007, the government of Canada issued Guidelines on the relevance of foreign state ownership in the ministerial decision to bar an acquisition by a foreign state.³ Under the Guidelines, the Minister has to examine whether CNOOC "adheres to Canadian standards of corporate governance (including, for example, commitments to transparency and disclosure, independent members of the board of directors, independent audit committees and equitable treatment of shareholders), and to Canadian laws and practices." In our view this must be interpreted to include human rights and labour rights considerations. This is in keeping with the United Nations Guiding Principles on Business and Human Rights according to which,

States need to take a broad approach to managing the business and human rights agenda, aimed at ensuring both vertical and horizontal domestic policy coherence. Vertical policy coherence entails States having the necessary policies, laws and processes to implement their international human rights law obligations. Horizontal policy coherence means supporting and equipping departments and agencies, at both the national and sub-national levels, that shape business practices – including those responsible for ... investment... – to be informed of and act in a manner compatible with the Governments' human rights obligations.⁴

Nexen and CNOOC's Own Human Rights Records

As part of the review, we also urge you to consider closely Nexen's long record of human rights leadership and assess whether CNOOC is likely to maintain and advance that record.

³ Guidelines, Investment by State-Owned Enterprises: Net Benefit Assessment, <http://www.ic.gc.ca/eic/site/ica-jic.nsf/eng/1k00064.html#p2>.

⁴ Human Rights Council, *Human Rights and Transitional Corporations and Other Business Enterprises* (21 March 2011), A/HRC/17/31 at para. 8, available at: http://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31_AEV.pdf.

Over the years, Nexen has frequently shown leadership when it comes to initiatives aimed at ensuring that human rights are taken seriously as part of a company's approach to corporate social responsibility. They were one of the first Canadian companies to adopt a Human Rights Policy, back in 2001. We understand that policy is currently being revised and updated. The company also played a central role in the development of the International Code of Ethics for Canadian Business, adopted in 1997. Internationally Nexen has been a leader within the UN Global Compact and has actively engaged in consultations leading up to adoption of the United Nations Guiding Principles on Business and Human Rights.

This track record stands in contrast to allegations that CNOOC may have operated in ways that contributed to human rights violations. Our Coalition is not in a position to be able to verify the allegations, but it has been reported that CNOOC may have been involved in oil exploration activities in Burma (Myanmar) without obtaining the free and informed consent of the affected communities. The company's surveying and exploratory drilling in Burmese villages reportedly caused damage to villagers' crops and eliminated their sources of income from traditional, small-scale oil drilling operations. Numerous villagers have reportedly faced arrests and interrogations at the hands of the Burmese army because of their participation in protests against the confiscation of their land and local refinery operations.⁵ We also note that the CNOOC's website provides information about its active involvement in the resettlement of Tibetan nomads near Nagchu, an issue of deep concern for Tibetans.

We note as well that serious concerns have arisen with respect to the labour rights record of other Chinese companies invested in the Canadian petroleum sector. Maclean's magazine has recently summarized some of those concerns.

In June, the Alberta government launched a website publicly outing employers who haven't paid their workers – an online hall of shame. Among these “deadbeat bosses”, as the media quickly dubbed them, the worst offender was a subsidiary of China Petrochemical Corp. (Sinopec), a Chinese state-owned oil giant. That same subsidiary, along with others, is facing charges after the deaths of two Chinese workers flown in to work on a site near Fort McMurray, Alta. in 2007. After much delay, the trial begins this fall.⁶

The UN Guiding Principles on Business and Human Rights (referenced above) and the Guidelines of the Organization for Economic Co-operation and Development (OECD) for Multinational Enterprises make it clear that business enterprises should respect human rights wherever they operate.⁷ Respect for human rights by businesses is understood “within the framework of internationally recognized human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic law and regulations.”⁸ Recognizing those international obligations and considering the contrast between

⁵ EarthRights International, *Broken Ethics: The Norwegian Government's Investment in Oil and Gas Companies Operating in Burma (Myanmar)* (December 2010), available at: <http://www.earthrights.org/sites/default/files/documents/Broken-Ethics.pdf>; Arakan Oil Watch, *Blocking Freedom: A Case Study of China's Oil and Gas Investment in Burma* at 7 (Oct. 2008) available at: www.arakanoilwatch.org/.

⁶ “Our Chinese Oil Sands”, Maclean's Magazine, 13 August 2012, pg. 36.

⁷ OECD Guidelines for Multinational Enterprises (25 May 2011), Chapter IV, Commentary on Human Rights at para. 2, available at: <http://www.oecd.org/investment/investmentpolicy/oecdguidelinesformultinationalenterprises.htm>.

⁸ *Ibid.*, Chapter IV, Chapeau.

the human rights record of Nexen and CNOOC, we urge you to closely and carefully review CNOOC's own human rights record as you are assessing this proposed takeover. If necessary, before approving the takeover, it is our view that you must insist on measures which will ensure that CNOOC respects human rights throughout operations associated with Nexen, whether in Canada or abroad.

Recommendations

Minister, in your upcoming review of the proposed acquisition of Nexen by the Chinese National Offshore Oil Corporation, the Canadian Coalition for Human Rights in China urges that you:

- Ensure that there is a thorough assessment of CNOOC's human rights record, including allegations that the company may have directly or indirectly contributed to human rights abuses in Burma and Tibet.
- Inquire as to whether CNOOC has a human rights policy in place, and whether any such policy is backed up by a process of internal monitoring and public compliance reporting similar to that adopted by Nexen.
- Consider the human rights and labour rights implications of the proposed take-over by CNOOC given that CNOOC is a government-owned company and the Chinese government continues to have a troubling human rights record on a number of different fronts.
- Develop an action plan that prominently promotes and safeguards human rights in any future proposed foreign takeovers by Chinese corporations and other companies whose operations or structure raises human rights concerns.
- Release publicly the Foreign Investment Protection Agreement negotiated between the governments of Canada and China, which is undergoing final review prior to implementation.

Thank you for your consideration of our concerns and recommendations. We would welcome an opportunity to meet with you to discuss these concerns and recommendations further. Arrangements can be made through Aden Seaton, Executive Assistant to Alex Neve, Secretary General of Amnesty International Canada's English Branch. Ms. Seaton can be reached by phone at 613 744 7667, ext 263 or by email at aseaton@amnesty.ca

Sincerely,



Alex Neve
Secretary General
Amnesty International Canada

On behalf of: Amnesty International Canada (English branch), Amnistie Internationale Canada francophone, Canada Tibet Committee, Federation for a Democratic China, Students for a Free Tibet Canada, Toronto Association for Democracy in China, Vancouver Society in Support of Democratic Movement in China.

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1980-81-82-83, c. 111, Sch. I "19".

STATUTORY PROHIBITIONS

Statutory prohibitions against disclosure

24. (1) The head of a government institution shall refuse to disclose any record requested under this Act that contains information the disclosure of which is restricted by or pursuant to any provision set out in Schedule II.

Review of statutory prohibitions by Parliamentary committee

(2) Such committee as may be designated or established under section 75 shall review every provision set out in Schedule II and shall, not later than July 1, 1986 or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting, cause a report to be laid before Parliament on whether and to what extent the provisions are necessary.

1980-81-82-83, c. 111, Sch. I "24".

Privileged Information

Privileged information	<p>36. (1) Subject to subsections (3) and (4), all information obtained with respect to a Canadian, a non-Canadian or a business by the Minister or an officer or employee of Her Majesty in the course of the administration or enforcement of this Act is privileged and no one shall knowingly communicate or allow to be communicated any such information or allow anyone to inspect or to have access to any such information.</p>
Evidentiary privilege	<p>(2) Notwithstanding any other Act or law but subject to subsections (3) and (4), no minister of the Crown and no officer or employee of Her Majesty in right of Canada or a province shall be required, in connection with any legal proceedings, to give evidence relating to any information that is privileged under subsection (1) or to produce any statement or other writing containing such information.</p>
Communication or disclosure of information	<p>(3) Information that is privileged under subsection (1) may, on such terms and conditions and under such circumstances as the Minister deems appropriate,</p> <p>(a) on request in writing to the Director by or on behalf of the Canadian or non-Canadian to which the information relates, be communicated or disclosed to any person or authority named in the request; or</p> <p>(b) for any purpose relating to the administration or enforcement of this Act, be communicated or disclosed to a minister of the Crown in right of Canada or a province or to an officer or employee of Her Majesty in right of Canada or a province.</p>
Exceptions	<p>(4) Nothing in this section prohibits the communication or disclosure of</p> <p>(a) information for the purposes of legal proceedings relating to the administration or enforcement of this Act;</p> <p>(b) information contained in any written undertaking given to Her Majesty in right of Canada relating to an investment that the Minister is satisfied or is deemed to be satisfied is likely to be of net benefit to Canada;</p> <p>(c) information to which the public has access;</p> <p>(d) information the communication or disclosure of which has been authorized in writing by the Canadian or the non-Canadian to which the information relates;</p> <p>(e) information contained in</p> <p>(i) any receipt sent pursuant to subsection 13(1) relating to an investment that is not reviewable pursuant to subsection 13(3),</p> <p>(ii) any notice sent under subsection 21(1) or (2), 22(2) or (3) or 23(3),</p> <p>or</p> <p>(iii) any demand sent by the Minister under section 39; or</p> <p>(f) information to which a person is otherwise legally entitled.</p>
Non-disclosure	<p>(5) No minister of the Crown and no officer or employee of Her Majesty in right of Canada or a province may be required, in connection with any legal proceedings or otherwise, to give evidence relating to or otherwise to communicate or disclose any information referred to in paragraph (4)(b) where, in the opinion of the Minister or a person designated by the Minister, the communication or disclosure of that information is not necessary for any purpose relating to the administration or enforcement of this Act and would prejudicially affect the non-Canadian that gave the written undertaking referred</p>

to in that paragraph in the conduct of the business affairs of that non-
Canadian.

R.S., 1985, c. 28 (1st Supp.), s. 36; 1995, c. 1, s. 50.